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10 Attorneys for Plaintiffs  
11 The People of the State of California, and  
12 The People of the United States of America  
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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

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People of the United States of  
America and the State of California,  
Plaintiffs,

vs.

Donald Trump; United States of  
America,  
Defendants.

Case Number: 3:17-cv-451

(Fee Exempt: 28 U.S.C. § 1914(b), by  
Judicial Conference effective 12/2016)

COMPLAINT FOR INJUNCTION  
AND REPEAL OF PRESIDENTIAL  
EXECUTIVE ORDER DATED  
JANUARY 27, 2017 SUSPENDING  
VISAS AND IMMIGRATION  
BENEFITS WITHOUT  
CONGRESSIONAL APPROVAL

U.S. Const. art. I, § 1;  
U.S. Const. art. II, § 1, cl. 1

**I. FEE EXEMPTION**

This action is brought on behalf of the People of the State of California and  
United States, and exempted from filing fees under 28 U.S.C. § 1914(b):

Effective on: December 1, 2016

1 The United States should not be charged fees under this schedule, with  
2 the exception of those specifically prescribed in Items 2, 4 and 5, when  
3 the information requested is available through remote electronic access.

4 Reference:

5 [http://www.uscourts.gov/services-forms/fees/district-court-miscellane  
6 ous-fee-schedule](http://www.uscourts.gov/services-forms/fees/district-court-miscellaneous-fee-schedule)

7 **I. JURISDICTION**

8 This action arises under the Constitution, laws, or treaties of the United States,  
9 conferring Federal Question jurisdiction under 28 U.S.C. § 1331.

10 **VENUE**

11 Defendant is the United States. Venue is proper in any judicial district pursuant  
12 to 28 U.S.C. § 1391(e).

13 **PARTIES**

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15 1. Plaintiffs are the People of the United States of America and the State of  
16 California, by way of the Private Attorney General statutes of the State of California  
17 and United States, for this civil action. The action is for the protection of all persons  
18 in the United States in their civil rights and for their vindication pursuant to brought  
19 pursuant to 42 U.S.C. § 1988.

20  
21 2. Defendant, Donald Trump, aka Donald John Trump (“Mr. Trump”), is  
22 the forty fifth president of the united states, inaugurated eight days ago, on January  
23 20, 2017. He is named as an indispensable party with regard to this action to enjoin  
24 enforcement of his executive order issued one day before the filing of this action, on  
25 January 27, 2017, purporting to suspend visas and immigration benefits of a  
26 seemingly undefined class of persons, apparently based on ethnicity and/or religious  
27 beliefs.

28 3. Defendant, the United States of America, is the United States

Government, generally, and is named as a defendant for the purpose of enjoining enforcement of the Executive Order of Mr. Trump.

**FIRST CAUSE OF ACTION FOR INUNCTION OF  
EXECUTIVE ORDER DATED JANUARY 27, 2017**

4. On January 27, 2017, one day before the filing of this Complaint, Mr. Trump signed an executive order purporting to suspend visas and immigration benefits of a seemingly undefined class of persons, apparently based on ethnicity and/or religious beliefs. The order is captioned:

**“EXECUTIVE ORDER  
PROTECTING THE NATION FROM FOREIGN TERRORIST  
ENTRY INTO THE UNITED STATES”**

A copy of the Executive Order is attached as Exhibit A hereto.

5. The Executive Order purports to suspend the issuance of visas and benefits, with it’s stated goal being the prevention of entry of citizens and/or residents of largely unspecified countries, and appears to erroneously reference a statute which does not appear to exist: “section 217(a)(12) of the INA.” While there is a “section 217,” there does not appear to be a section “217(a)(12)” identifying the countries from which “immigrant and nonimmigrant” persons are to be denied entry to the United States:

I hereby proclaim that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order...”

The People are not able to readily identify which countries the President intended because there does not appear to be a “section 217(a)(12),” and therefore does not appear to be any publication defining the “countries referred” in “section 217(a)(12).

6. The Executive Order violates the separation of powers doctrine without statutory exception, because U.S. Const. art. I, § 1 vests Congress with all legislative powers:

1 U.S. Const. art. I, § 1

2 All legislative Powers herein granted shall be vested in a Congress of the  
3 United States, which shall consist of a Senate and House of  
Representatives.

4 The President is vested with the executive power pursuant to U.S. Const. art. II, § 1,  
5 cl. 1:

6 Section 1. The executive Power shall be vested in a President of the United  
7 States of America.

8 The Judiciary, this Court, is vested with the judicial powers to interpret the laws  
9 pursuant to is vested with U.S. Const. art. III, § 1:

10 Section 1. The judicial Power of the United States, shall be vested in one  
11 supreme Court, and in such inferior Courts as the Congress may from  
12 time to time ordain and establish. The Judges, both of the supreme and  
inferior Courts, shall hold their Offices during good Behaviour, and  
shall, at stated Times, receive for their Services, a Compensation, which  
shall not be diminished during their Continuance in Office.

13 No Statutory Exception Exists

14 There has been no change of any kind so as to warrant departure from the  
15 Separation of Powers doctrine and permit Mr. Trump to legislate the Executive Order  
16 at issue. There has been on increase of threat of terrorist attacks at all since the event  
17 referenced in the second paragraph of Mr. Trump's Executive Order, the "terrorist  
18 attacks of September 11, 2001." To the contrary, the threat of terrorist attacks has  
19 declined steadily since September 2001, therefore Congress and the previous two  
20 presidential administrations never considered enacting such a prohibition of entry of  
21 persons to the United States based on their countries of origin and/or religious beliefs.  
22 There is no exigent circumstance exception to warrant an executive order, while the  
23 legislature and previous two presidents served through the several years following  
24 September 11, 2001 and had years to enact legislation barring entry into the United  
25 States by the classes of persons identified on Mr. Trump's Executive Order, but  
26 clearly determined such legislation would be detrimental to the interests of the People  
27 of the United States of America.  
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1  
2 THE EXECUTIVE ORDER WOULD DAMAGE U.S. REPUTATION

3 Mr. Trump's intent is commendable and appreciated insofar as he identifies  
4 persons who inflict "gender-based violence against women, including honor killings,"  
5 as well as persons "who have been radicalized after entry into the United States and  
6 engaged in terrorism-related acts, or who have provided material support to terrorism-  
7 related organizations in countries that pose a threat to the United States." However,  
8 Mr. Trump's Executive Order is overly broad and misses its mark. If not stricken,  
9 the Executive Order would facially damage the reputation of the United States  
10 worldwide, because it discriminates against a very large class of persons based on  
11 either their foreign citizenship or residency, or religious beliefs, based on an erroneous  
12 beliefs of one individual (Mr. Trump). While the several countries Mr. Trump  
13 attempted to identify on his Executive Order are not actually specified, and apparently  
14 cannot even be ascertained from the document or its references, nevertheless a ban  
15 on entry to the United States based solely on foreign citizenship or residency, or  
16 religion, facially evidences inhumane discrimination.

17  
18 CONGRESS MAY ENACT THE LEGISLATION IF NECESSARY

19 The Legislative branch is charged with enactment of the laws. Mr. Trump can  
20 therefore tender his Executive Order as a bill to Congress, so that the legislature can  
21 decide whether such a law should be enacted for the benefit of the People of the  
22 United States of America. However, no statute or authority exists to support the  
23 issuance of this particular Executive Order.

24  
25 **SECOND CAUSE OF ACTION TO STRIKE EXECUTIVE**  
26 **ORDER AS UNCONSTITUTIONAL INFRINGEMENT ON**  
27 **ESTABLISHMENT CLAUSE**

28 7. The First Amendment to the United States Constitution is the cornerstone

1 of democracy. The first sentence of the First Amendment provides:

2 “Congress shall make no law respecting an establishment of religion...”

3 Mr. Trump’s Executive Order presents a proposed “law” facially prohibiting entry of  
4 persons to the United States based on their adherence to religious beliefs shared in  
5 certain countries. The Executive Order therefore is facially unconstitutional and must  
6 be stricken as an infringement on the Establishment Clause of the First Amendment.

7 **INJUNCTIVE RELIEF PENDING ADJUDICATION**

8 Plaintiffs respectfully move for an immediate injunction of enforcement of Mr.  
9 Trump’s Executive Order until it’s validity and constitutionality is adjudicated.

10  
11 Dated: January 28, 2017

s/Andrew W. Shalaby  
Andrew W. Shalaby, Attorney for  
Plaintiffs

**PROOF OF SERVICE**

I, Andrew W. Shalaby, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. I am employed at 7525 Leviston Ave, El Cerrito, CA. On January 28, 2017 I served the attached:

COMPLAINT FOR INJUNCTION AND REPEAL OF  
PRESIDENTIAL EXECUTIVE ORDER DATED  
JANUARY 27, 2017 SUSPENDING VISAS AND  
IMMIGRATION BENEFITS WITHOUT  
CONGRESSIONAL APPROVAL

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Office of the Attorney General  
455 Golden Gate, Suite 11000  
San Francisco, CA 94102-7004

and served the named document in the manner indicated below:

**BY MAIL:** I am familiar with the practices of the U.S. Postal Service, and I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelopes(s) addressed to the addressees, at an office of the U.S. Postal Service in El Cerrito, California, for collection and mailing by first class mail with the United States Postal Service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 28, 2017, at El Cerrito, California.

s/Andrew W. Shalaby

Andrew W. Shalaby